

§ 58-19-38. Group-wide supervision of internationally active insurance groups.

(a) In cooperation with other state, federal, and international regulatory agencies, the Commissioner will identify a single group-wide supervisor for an internationally active insurance group in accordance with the provisions of this section. The Commissioner is authorized to act as the group-wide supervisor for any internationally active insurance group. However, the Commissioner may otherwise acknowledge another regulatory official as the group-wide supervisor where the internationally active insurance group meets any of the following criteria:

- (1) It does not have substantial insurance operations in the United States.
- (2) It has substantial insurance operations in the United States, but not in this State.
- (3) It has substantial insurance operations in the United States and this State, but the Commissioner has determined pursuant to the factors set forth in subsections (b) and (f) of this section that the other regulatory official is the appropriate group-wide supervisor.

An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request that the Commissioner make a determination or acknowledgment as to a group-wide supervisor pursuant to this section.

(b) The Commissioner shall consider all of the following factors when determining that the Commissioner is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in this State or acknowledges that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group:

- (1) The place of domicile of the insurers within the internationally active insurance group that holds the largest share of the group's written premiums, assets, or liabilities.
- (2) The place of domicile of the top-tiered insurer(s) in the insurance holding company system of the internationally active insurance group.
- (3) The location of the executive offices or largest operational offices of the internationally active insurance group.
- (4) Whether another regulatory official is acting or is seeking to act as the group-wide supervisor under a regulatory system that the Commissioner determines to have either of the following characteristics:
 - a. The system is substantially similar to the system of regulation provided under the laws of this State.
 - b. The system is otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials.
- (5) Whether another regulatory official acting or seeking to act as the group-wide supervisor provides the Commissioner with reasonably reciprocal recognition and cooperation.

A regulatory official identified under this section as the group-wide supervisor may determine that it is appropriate to acknowledge another regulatory official to serve as the group-wide supervisor. The acknowledgment of the group-wide supervisor shall be made (i) after consideration of the factors listed in subdivisions (1) through (5) of this subsection, (ii) in cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group, and (iii) in consultation with the internationally active insurance group.

(c) Notwithstanding any other provision of law, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the Commissioner shall acknowledge that regulatory official as the group-wide supervisor. However, the G.S. 58-19-38

Commissioner shall make a determination or acknowledgment as to the appropriate group-wide supervisor for such an internationally active insurance group pursuant to subsection (b) of this section when there is a material change in the internationally active insurance group that results in either of the following:

- (1) The internationally active insurance group's insurers domiciled in this State holding the largest share of the group's premiums, assets, or liabilities.
- (2) This State being the place of domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group.

(d) Pursuant to G.S. 58-19-35, the Commissioner is authorized to collect from any insurer registered pursuant to G.S. 58-19-25 all information necessary to determine whether the Commissioner may act as the group-wide supervisor of an internationally active insurance group or if the Commissioner may acknowledge another regulatory official to act as the group-wide supervisor. Prior to issuing a determination that an internationally active insurance group is subject to group-wide supervision by the Commissioner, the Commissioner shall notify the insurer registered pursuant to G.S. 58-19-25 and the ultimate controlling person within the internationally active insurance group. The internationally active insurance group shall have 30 days to provide the Commissioner with additional information pertinent to the pending determination.

(e) If the Commissioner is the group-wide supervisor for an internationally active insurance group, the Commissioner is authorized to engage in the following group-wide supervision activities:

- (1) Assess the enterprise risks within the internationally active insurance group to ensure all of the following:
 - a. That the material financial condition and liquidity risks to the members of the internationally active insurance group, that are engaged in the business of insurance, are identified by management.
 - b. That reasonable and effective mitigation measures are in place.
- (2) Request, from any member of an internationally active insurance group subject to the Commissioner's supervision, information necessary and appropriate to assess enterprise risk. This information includes information about the governance, risk assessment and management, capital adequacy, and material intercompany transactions of the members of the internationally active insurance group.
- (3) Coordinate and, in reliance on the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of the internationally active insurance group that are engaged in the business of insurance.
- (4) Communicate with other state, federal, and international regulatory agencies with jurisdiction over members within the internationally active insurance group and share relevant information through supervisory colleges as set forth in G.S. 58-19-37 or otherwise subject to the confidentiality provisions of G.S. 58-19-40.
- (5) Enter into agreements with or obtain documentation from any insurer registered under G.S. 58-19-25, any member of the internationally active insurance group, and any other state, federal, and international regulatory agencies for members of the internationally active insurance group, providing

the basis for or otherwise clarifying the Commissioner's role as group-wide supervisor, including provisions for resolving disputes with other regulatory officials. Such agreements or documentation shall not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not domiciled or incorporated in this State is doing business in this State or is otherwise subject to jurisdiction in this State.

(6) Other group-wide supervision activities, consistent with the authorities and purposes enumerated above, as considered necessary by the Commissioner.

(f) If the Commissioner acknowledges that another regulatory official from a jurisdiction that is not accredited by the NAIC is the group-wide supervisor, the Commissioner is authorized to reasonably cooperate, through supervisory colleges or otherwise, with group-wide supervision undertaken by the group-wide supervisor, provided that both of the following conditions are met:

- (1) The Commissioner's cooperation is in compliance with the laws of this State.
- (2) The regulatory official acknowledged as the group-wide supervisor recognizes and cooperates with the Commissioner's activities as a group-wide supervisor for other internationally active insurance groups where applicable.

Where recognition and cooperation are not reasonably reciprocal, the Commissioner is authorized to refuse recognition and cooperation.

(g) The Commissioner may enter into agreements with or obtain documentation from any insurer registered under G.S. 58-19-25, any affiliate of the insurer, and other state, federal, and international regulatory agencies for members of the internationally active insurance group that provide the basis for or otherwise clarify a regulatory official's role as group-wide supervisor.

(h) The Commissioner may adopt rules necessary for the administration of this section.

(i) A registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the Commissioner's participation in the administration of this section, including the engagement of attorneys, actuaries, and any other professionals and reasonable travel expenses. (2019-57, s. 1(c).)